

Panaji, 12th March, 2015 (Phalguna 21, 1936)

SERIES II No. 50

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There are two Extraordinary issues to the Official Gazette, Series II No. 49 dated 05-03-2015 as follows:-

- (1) Extraordinary dated 05-03-2015 from pages 1069 to 1070 regarding Notifications from Department of Finance.
- (2) Extraordinary (No. 2) dated 11-03-2015 from pages 1071 to 1072 regarding Notification from Department of Elections.

GOVERNMENT OF GOA

Department of Agriculture

Directorate of Agriculture

Order

No. 8/73/2014-15/D.Agri/281

On superannuation of Shri Olavio Fernandes, District Officer North w.e.f. 27-02-2015 (a.n.), Shri U. B. Pai Kakode, Programme Co-ordinator, South Goa District shall hold additional charge of District Officer North with Drawing and Disbursing and all other powers as Head of Office. He shall also hold additional charge of Dy. Director of Agriculture (Farms) as Shri Satish Dev is being transferred.

Shri Satish Dev, Dy. Director of Agriculture (Farms) is transferred and posted as Dy. Director of Agriculture (Agronomy) against the vacancy caused due to voluntary retirement of Shri Datta Kossambe. The Horticulture Section which was attached to Dy. Director of Agriculture (Farms) shall now be attached to Dy. Director of Agriculture (Agronomy). Shri Dev is hereby relieved as Dy. Director of Agriculture (Farms) with immediate effect.

Shri Yadvendra Dessai, Dy. Director of Agriculture (Watershed), holding additional charges of Dy. Director of Agriculture (Agronomy) and (Plant Protection) section shall be relieved of the additional charge of Dy. Director (Agronomy),

but shall continue with the additional charge of (Plant Protection) section until further orders.

This is issued with approval of the Government.

By order and in the name of the Governor of Goa.

Orlando Rodrigues, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 27th February, 2015.



Department of Co-operation

Office of the Registrar of Co-operative Societies

Order

No. 9-22-2014/EST/RCS/4055

On the recommendations of Goa Public Service Commission vide their letter No. COM/II/12/11(2)/2014/883 dated 29-01-2015, the probation period of the following Assistant Registrars of Co-operative Societies "Group B", Gazetted in the pay scale of PB-2 9,300-34,800+ 4,600/- Grade Pay in the establishment of Registrar of Co-operative Societies have been lifted as they have satisfactorily completed their probation period as shown below:

| Sr. No. | Name of the Officers | Date of appointment in regular service as Assistant Registrar of Co-operative Societies | Date of lifting of probation period |
|---------|----------------------|---|-------------------------------------|
| 1 | 2 | 3 | 4 |
| 1. | Smt. Shivane Borkar | 16-07-2007 | 15-07-2009. |
| 2. | Shri P. D. Halarnkar | 16-07-2007 | 15-07-2009. |
| 3. | Shri A. S. Mahatme | 14-05-2008 | 13-05-2010. |

| 1 | 2 | 3 | 4 |
|----|---------------------|------------|-------------|
| 4. | Shri Ramesh P. Naik | 14-05-2008 | 13-05-2010. |

By order and in the name of the Governor of Goa.

Narayan Sawant, Registrar & ex officio Joint Secretary (Co-operative Societies).

Panaji, 27th February, 2015.



Department of Education, Art & Culture

Directorate of Higher Education

Order

No. 21/2/2013-DHE/652

Read: This Office Memorandum No. 21/2/2013-DHE/2468 dated 24-09-2014.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/1/5/78(14)/2013/682 dated 14-08-2014, Government is pleased to appoint Smt. Ranjana Dilip Sawaikar, on temporary basis to the post of Assistant Professor in Commerce (Group 'A', Gazetted) on an initial pay of Rs. 15,600/- in the pay band of Rs. 15,600-39,100+ AGP Rs. 6,000/- and other allowances as admissible from time to time as per the terms and conditions contained in the memorandum dated 24-09-2014 referred to above with effect from 15-06-2015. Upon her appointment she is posted in Government College of Arts, Science and Commerce, Khandola, Goa.

Smt. Ranjana Dilip Sawaikar, will be on probation for a period of two years.

By order and in the name of the Governor of Goa.

Amul S. Gaunkar, Under Secretary (HE).

Porvorim, 20th February, 2015.

Order

No. 21/3/95-EDN/PART/III/653

Read: This Office Memorandum No. 21/3/95/EDN/PART III/2467 dated 24-09-2014.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/1/5/78(14)/2013/682 dated 14-08-2014, Government is pleased to appoint Shri Mahesh Mangesh Kerkar, on temporary basis to the post of Assistant Professor in Commerce (Group 'A',

Gazetted) on an initial pay of Rs. 15,600/- in the pay band of Rs. 15,600-39,100+ AGP Rs. 6,000/- and other allowances as admissible from time to time as per the terms and conditions contained in the memorandum dated 24-09-2014 referred to above with effect from 15-06-2015. Upon his appointment he is posted in Government College of Commerce, Borda, Margao-Goa.

Shri Mahesh Mangesh Kerkar will be on probation for a period of two years.

By order and in the name of the Governor of Goa.

Amul S. Gaunkar, Under Secretary (HE).

Porvorim, 19th February, 2015.

Order

No. 21/2/2013-DHE/662

Read: This Office Memorandum No. 21/2/2013-DHE/3048 dated 27-12-2014.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/1/5/78(13)/2013/779 dated 03-11-2014, Government is pleased to appoint Kum. Asmita Sandesh Naik Gaonkar, on temporary basis to the post of Assistant Professor in Chemistry (Group 'A', Gazetted) on an initial pay of Rs. 15,600/- in the pay band of Rs. 15,600-39,100+ AGP Rs. 6,000/- and other allowances as admissible from time to time as per the terms and conditions contained in the memorandum dated 27-12-2014 referred to above with effect from 15-06-2015. Upon her appointment she is posted in Government College of Arts, Science and Commerce, Sanquelim-Goa.

Kum. Asmita Sandesh Naik Gaonkar, will be on probation for a period of two years.

By order and in the name of the Governor of Goa.

Amul S. Gaunkar, Under Secretary (HE).

Porvorim, 19th February, 2015.



Directorate of Technical Education

College Section

Order

No. DTE/ADC/16/2/35/2011/3690

In pursuance of acceptance of the recommendations of All India Council for Technical Education [Pay Scales, Service Conditions and

Qualifications for the Teachers and other Academic Staff in Technical Institutions (Degree) Regulations, 2010] by the Government of Goa vide Order No. DTE/Estt/I-9-II/Pay Fixation/2009/273 dated 27-01-2011, approval of the Government is hereby conveyed for re-designation of the following teaching faculty of the Goa College of Engineering with effect from date mentioned in column 5 against their name.

| Sr. No. | Name | Present designation | Re-designated to | Date of re-designation |
|---------|---------------------------|--|--|------------------------|
| 1. | Sumitra S. Tari Kandolkar | Assistant Professor in Civil Engineering | Associate Professor in Civil Engineering | 11-11-2014. |

With the placement of the faculty to the higher post, the respective post, the above faculty is currently holding stands temporarily upgraded for the sole purpose of placement of the existing faculty to the higher post.

The post shall stand reverted to the original post once the faculty ceases to occupy the upgraded post.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Additional Secretary (Technical Education).

Porvorim, 27th February, 2015.

Department of Fisheries

Order

No. DF/ADMN/FILL/SOF/B/BP/RRFBP/11/6279

The Governor of Goa is pleased to promote Smt. Megha Siddesh Kerkar, Asstt. Suptd. of Fisheries (Group "C" post) (Non-Gazetted) to the post of Suptd. of Fisheries (Group "B", Gazetted) on ad hoc basis for a period of one year w.e.f. the date she takes over the charge of the said post in the pay scale PB-2 Rs. 9,300-34,800+ Grade Pay Rs. 4,600/- plus other allowances as admissible from time to time.

Her promotion is made against the post vacated by Shri Raghunath Bablo Kawthankar, Suptd. of Fisheries (retired).

The expenditure on this shall be debited to the Budget Head 2405—Fisheries; 00—001—Direction & Administration; 01—Administrative Staff (Non-plan); 01—Salaries under Demand No. 66.

This has been approved by Government vide their entry No. 10754/F dated 28-11-2014.

By order and in the name of the Governor of Goa.

Dr. Smt. *Shamila Monteiro*, Director & ex officio Jt. Secretary (Fish).

Panaji, 20th February, 2015.

Order

No. DF/ADMN/LOPP/CDV/SOF/2014/6280

Read: Order No. DF/ADMN/PF/CDV/SOF/2012/2747 dated 24-07-2012.

On the recommendation of the Departmental Promotion Committee as conveyed by the Goa Public Service Commission vide their letter No. COM/II/12/20(1)/2014/882 dated 29-01-2015, the Governor of Goa is pleased to lift the probation period in respect of Shri Chandrakant Dhalo Velip, to the post of Suptd. of Fisheries (Group "B", Gazetted) in the Directorate of Fisheries in the pay scale of PB-2 Rs. 9,300-34,800+ Grade Pay Rs. 4,600/- with immediate effect.

By order and in the name of the Governor of Goa.

Dr. Smt. *Shamila Monteiro*, Director & ex officio Jt. Secretary (Fish).

Panaji, 20th February, 2015.

Order

No. DF/ADMN/FILL/SOF/B/BP/RRFBP/11/6313

Read: Order No. DF/ADMN/FILL/SOF/B/BP/RRFBP/11/6229 dated 20-02-2015.

In pursuance of the above order Smt. Megha Siddesh Kerkar has joined the post of Suptd. of Fisheries (Group "B", Gazetted) w.e.f. 20-02-2015 (b. n.) on ad hoc basis.

The ad hoc appointment is for the period of one year w.e.f. 20-02-2015 to 19-02-2016.

The above ad hoc appointment will not bestow on the promoted officer any claim for regular appointment and the service rendered on ad hoc basis in the grade will not count for the purpose of seniority in their grade or for eligibility for promotion to the next higher grade.

By order and in the name of the Governor of Goa.

Dr. Smt. *Shamila Monteiro*, Director & ex officio Jt. Secretary (Fish).

Panaji, 20th February, 2015.

Department of General Administration

Notification

No. 2/2/2010-GAD-III(Part)

In exercise of the powers conferred by the explanation to Section 25 of the Negotiable Instruments Act, 1881 (Act 26 of 1881) read with the Government of India, Ministry of Home Affairs, Notification No. U-11030/2/73-UTL dated 28-06-1973, the Government of Goa hereby declares **Sunday (both), the 08th March, 2015 (Phalguna 17, 1936) and the 15th March, 2015 (Phalguna 24, 1936) as “Public Holidays” for the Offices situated within the limits of following Village Panchayats being the “Polling Days” for the Bye-Elections to the below mentioned Village Panchayats.**

| Sr. No. | Name of the Panchayat | Date of Election |
|---------|--|------------------|
| 1. | Ward No. III of Village Panchayat, Macazana and Ward No. III of Village Panchayat, Loutolim in Salcete Taluka Ward No. VI of Village Panchayat, Siolim-Sodiem in Bardez Taluka Ward No. VII of Village Panchayat, Ibrampur-Hankhane in Pernem Taluka | 08th March, 2015 |
| 2. | Ward No. IX of Village Panchayat, Dongurli-Thane in Satari Taluka Ward No. III of Village Panchayat, Salem in Bicholim Taluka | 15th March, 2015 |

The aforesaid holiday shall be a “paid holiday” in addition to the holidays indicated in the Notification No. 2/1/2014-GAD-H dated 11-09-2014, to the establishments as detailed below:-

- i) industrial workers who are voters of aforesaid Village Panchayats.
- ii) daily wage workers of the Government Departments and State Government Industrial Departments who are voters of aforesaid Village Panchayats.
- iii) employees of the commercial and industrial workers of private establishment who are voters of aforesaid Village Panchayats.

iv) all private establishments who are voters of aforesaid Village Panchayats.

v) workers of Semi-Government who are voters of aforesaid Village Panchayats.

By order and in the name of the Governor of Goa.

Varsha S. Naik, Under Secretary (GA-I).

Porvorim, 05th March, 2015.

Goa Human Rights Commission
Panaji-Goa

Proceeding No. 26/2012

Inquiry Report

The Complainant/Shri Shyam Mhalsekar has approached this Commission alleging that he was arrested illegally by Police Inspector, Shri Santosh Dessai attached to Quepem Police Station on 17-05-2012 at about 4.30 p.m.

2. It would be convenient to narrate brief facts in order to appreciate the controversy involved in this case which are as follows: The Complainant, Shri Shyam Mhalsekar is the brother of one Shri Suresh Mhalsekar. One Shri Pralhad Prabhu Dessai is the father-in-law of Shri Suresh Mhalsekar. The said Pralhad Prabhu Dessai filed a complaint before Quepem Police alleging that on 15-05-2012, he was assaulted and abused by his son-in-law Shri Suresh Mhalsekar and the Complainant. On the basis of the said complaint, Quepem Police arrested the Complainant.

3. It is the case of the Complainant that on 15-05-2012 he was not present at the place of alleged incident and that on that day he was working in his garage at Kakoda from 2.00 p.m. to 6.30 p.m. The Complainant has stated that the Police Inspector/Shri Santosh Dessai arrested him without making any investigation in the matter of the complaint of Pralhad Prabhu Dessai. The Complainant has further stated that on 17-05-2012 at about 4.30 p.m. Police Constable came to his garage and told him that the Police Inspector had called him to Quepem Police Station and took the Complainant with him to the Police Station. He has further stated that he waited at the Police Station for about 2 & 1/2 hours and thereafter he was called by Police Inspector in his chamber and he was told that Shri Pralhad Prabhu Dessai had filed a complaint against him and his brother Suresh. The Complainant has also stated that he tried to explain to the Police Inspector that he was

not involved in the alleged incident and when the incident occurred he had gone to Hospicio Hospital, Margao to check his knee which was injured in an accident. The Police Inspector arrested and detained him in the Lock-Up.

4. On the basis of the complaint, this Commission issued notices to the Respondents. The Respondents No. 3 and 4 have filed separate replies denying the allegations made by the Complainant against the police. The Respondent No. 4 in his reply has stated that one Shri Pralhad Prabhu Dessai filed a complaint at Quepem Police Station alleging that on the same day at 15.05 hrs. Shri Shyam Mhalsekar along with Shri Suresh Mhalsekar and one unknown male person with their common intention wrongfully restrained the Complainant (Shri Pralhad Prabhu Dessai) and abused him and also assaulted him with kicks, slaps and stones. An offence vide Crime No. 31/2012 u/s Sections 341, 504, 323 and 394 of IPC read with Section 34 of IPC was registered. Acting upon the said complaint, Shri Gaurish Parab, Police Sub-Inspector conducted investigation and filed charge-sheet before Judicial Magistrate First Class, Quepem on 09-08-2012 against the Complainant herein and Shri Suresh Mhalsekar.

5. The Complainant has examined himself as CW1 and has filed Affidavits-in-Evidence of four more witnesses namely CW2/Shri Vaman Vaidhya, CW3/Shri Pramod Naik, CW4/Shri Eknath Lamani and CW5/Shri Kasim Aga. However, the witness CW3 was not made available before the Commission for cross-examination and hence the Affidavit-in-Evidence of CW3 is kept out of consideration. The Respondent No. 4 examined himself as RW1 and also examined four more witnesses namely, RW2/Shri Pralhad Prabhu Dessai, RW3/Shri Saaish Azgaonkar, RW4/Shri Satyendra R. Joshi and RW5/Shri Mariano D'Souza.

6. We have perused the records of this case. We have also heard the learned Advocates of both the Parties.

7. The main grievance of the Complainant is that the Police Inspector/Shri Santosh Dessai, Quepem Police Station arrested him illegally on the basis of the complaint filed by Pralhad Prabhu Dessai without conducting any investigation. The records of this case clearly indicate that the Quepem Police registered FIR bearing No. 31/2012 dated 15-05-2012 against Shri Suresh Mhalsekar and Shri Shyam Mhalsekar (Complainant herein) on the basis of the complaint filed by Shri Pralhad Prabhu Dessai. The records further indicate that the Quepem Police conducted investigation in this

case and after completing the investigation filed charge-sheet before the Judicial Magistrate First Class, Quepem bearing charge-sheet No. 25/2012 under Sections 341, 504, 323 and 394 of IPC read with Section 34 of IPC against the Complainant and his brother Shri Suresh Mhalsekar. In these circumstances, it shall not be correct to conclude that the Complainant was arrested without conducting any investigation by the Police.

8. The next grievance of the Complainant is that he was apprehended by the Quepem Police on 17-05-2012 at about 4.30 p.m. at his garage at Kakoda which is the work place of the Complainant and not at Tilamol, Quepem as claimed by Quepem Police. The Complainant (CW1) in his examination-in-chief has stated that on 17-05-2012 at around 4.30 p.m. Police Constable came to his garage and told him that P.I. had called him to Quepem Police Station and took him to the Police Station. Similarly, the witness Shri Vaman Vaidhya (CW2) has also stated that on 17-05-2012 at around 4.30 p.m. Police Constable came to the work-shop and inquired about who is Shyam and when Shyam Mhalsekar innocently said that he is Shyam, the Police Constable asked Shyam to come to Quepem Police Station as Police Inspector has called him and the said Police Constable took Shyam to Quepem Police Station. The other witness Shri Kasim Aga (CW5) who is the business partner of the Complainant of the work-shop has also stated that on 17-05-2012 at about 4.30 p.m. one Police Constable came to their work-shop and asked who is Shyam Mhalsekar and at that time his associate answered that he is Shyam Mhalsekar. He has further stated that the Police Constable said that the Police Inspector from Quepem Police Station has called him and took Shyam with him to Quepem Police Station.

9. The Respondent No. 4 has denied that the Complainant (CW1) was apprehended at his garage at Kakoda as claimed by the Complainant. According to the Respondent No. 4 the Complainant was apprehended at Tilamol. Respondent No. 4 (RW1) has stated in his examination-in-chief that on 17-05-2012 in the evening they received information that Shyam Mhalsekar is seen at Tilamol. Accordingly, Police visited Tilamol and brought him to Police Station. He was produced before the Investigation Officer Shri Gaurish Parab and after thorough investigation he was arrested at 18.50 hrs. RW1 in his cross-examination has maintained that the Complainant was arrested on 17-05-2012 at Tilamol. In his cross-examination he has also

stated that the place of arrest has not been shown in the Arrest Panchanama but it has been indicated in the Station Diary. We have perused the Station Diary dated 17-05-2012 which indicates that Shyam Mhalsekar was apprehended at Tilamol and was brought to Police Station and he was arrested in Quepem P. S. Crime No. 31/12 u/s 341, 504, 323 and 394 of IPC read with Section 34 of IPC.

10. The Respondent No. 4 (RW1) has also examined one Shri Mariano Custodio D'Souza as RW5 to establish the fact that the Complainant was apprehended at Tilamol Junction. RW5 in his examination-in-chief has stated that on 17-05-2012 in the evening time he was present at Tilamol Junction and at about 18.30 hrs. one police vehicle came with some policemen and one more person by name Shyam Mhalsekar who was standing near Forest Check Post near Tilamol Junction. The Police Personnel went near him and on seeing the police he started running towards Jambaulim side. The Police ran behind him and caught the said person. He has also stated that the Police Personnel put the said person by name Shyam Mhalsekar in the Police vehicle and went near Quepem side. Thus on the basis of the evidence led by Respondent No.4 which is supported by Station Diary entry of 17-05-2012 it can be seen that the Complainant was apprehended at Tilamol Junction.

11. In any event, the place of arrest of the Complainant by the Police is not material and relevant in the facts and the circumstances of this case. The question for determination before this Commission is whether in the set of circumstances of the present case, whether the Police were justified in arresting the Complainant at the initial stage of investigation without applying its mind about the genuineness of the allegations made against the Complainant (Shyam Mhalsekar). The records indicate that FIR was registered against the Complainant and his brother Suresh Mhalsekar for having committed offences u/s 341, 504, 323 and 394 of IPC read with Section 34 of IPC on 15-05-2012. The offence u/s 341 is punishable with imprisonment for one month or fine of Rs. 500/- or both. The offence u/s 504 of IPC is punishable with imprisonment of two years or fine or both and the offence u/s 323 of IPC is punishable with imprisonment for one year or fine of Rs. 1,000/- or both. The offence u/s 341 of IPC is cognizable in nature. The offences u/s 323 and 504 of IPC are non-cognizable in nature. The offence u/s 394 of IPC is punishable with imprisonment for life or imprisonment for 10 years or fine and it is cognizable in nature.

Expressing its deep concern about the misuse of powers by Police Officers in arresting and detaining any person for alleged commission of offence/offences, although cognizable in nature but which is punishable with imprisonment for less than 7 years, the Apex Court in Criminal Appeal No. 1277 of 2014 (Arnesh Kumar v/s State of Bihar & Anr.) has observed as follows:

“Arrest brings humiliation, curtails freedom and scars forever. Law makers know it so also the police. There is a battle between the Law makers and the police and it seems that the police have not learnt its lesson; the lesson implicit and embodied in the Cr. PC. It has not come out of its colonial image despite six decades of independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasized time and again by Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive”.

“Law Commissions, Police Commissions and this Court in a large number of judgements emphasises the need to maintain a balance between individual liberty and societal order while exercising the power of arrest. Police officers make arrest as they believe that they possess the power to do so. As the arrest curtails freedom, brings humiliations and casts scars forever, we feel it differently. We believe that no arrest should be made only because the offence is non-bailable and cognizable and therefore lawful for the police officers to do so. The existence of power to arrest is one thing, the justification for the existence of it is quite another. Apart from power to arrest, the police officers must be able to justify the reasons thereof. No arrest can be made in an routine manner on a mere allegation of commission of an offence made against a person. It would be prudent and wise for a police officer that no arrest is made without a reasonable satisfaction reached after some investigation as to the genuineness of the allegation”.

The Apex Court also observed “*our endeavour in this judgement is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically.*”

12. The above observations were made by the Hon'ble Supreme Court while dealing with the case in which the offences were punishable with imprisonment for a term which was less than 7 years with or without fine. In this particular case before us, as stated above, the Complainant along with co-accused are charged for having committed an offence punishable in the Section-394 of IPC which carries imprisonment for life or imprisonment for 10 years or fine. The Complainant has been charged for having committed offence u/s 394 of IPC. Though, prima facie we have our own reservations whether the offence u/s 394 of IPC is made out, yet we do not think it would be appropriate for us to delve into that question as the matter is pending before the Competent Court. The above cited ruling is not applicable to the facts of the present case. However, we observe that it is in the fitness of things, the police should not arrest and detain any person mechanically and in casual manner merely because they have powers to do so in respect of the offences which are cognizable in nature without recording reasonable satisfaction about the genuineness of such allegations. The police authorities should keep in mind the observations made by the Hon'ble Supreme Court while effecting arrests.

In the light of the above observations, the proceeding is closed.

A copy of this inquiry report be forwarded to
1) Director General of Police, Panaji-Goa,
2) Superintendent of Police (North), Porvorim-Goa,
3) Superintendent of Police (South), Margao-Goa.

Director General of Police is hereby directed to forward a copy of this Inquiry Report/Order to all Police Stations in the State of Goa for strict compliance of the observations made by the Hon'ble Supreme Court while effecting arrests and inform this Commission about the compliance of the above direction within a period of 30 days.

Date: 13-11-2014.

Place: Panaji-Goa.

| | | |
|-----------------------------|-----------------------------|-----------------------------|
| Sd/- | Sd/- | Sd/- |
| Justice P. K. Misra | A. D. Salkar | J. A. Keny |
| Chairperson | Member | Member |
| Goa Human Rights Commission | Goa Human Rights Commission | Goa Human Rights Commission |

BEFORE THE GOA HUMAN RIGHTS COMMISSION, PANAJI-GOA

Proceeding No. 26/2012

REPLY ON BEHALF THE CHIEF SECRETARY,
STATE OF GOA

MAY IT PLEASE YOUR HONOUR

In view of the directions given by the Hon'ble Commission in the above mentioned matter, I am directed to submit that the undersigned, the Under Secretary (Home), would like to place the following before the Hon'ble Commission.

The copy of Inquiry Report in Proceeding No. 26/2012 dated 13-11-2014 of GHRC has been circulated to all the Police Stations and Units Vide No. PHQ/PET-CELL/QUE-23/14/3640/2014 dated 05-12-2014 with instructions to strictly comply the directions pointed out by GHRC in its inquiry report and as per the observations made by the Hon'ble Supreme Court, while effecting arrest formalities.

It is also stated that the Inquiry report in Proceeding No. 26/2012 has been forwarded to all I/Cs of Police Stations and SDPOs in North Goa and South Goa for strict compliance.

Place: Porvorim-Goa. (Neetal P. Amonkar)

Date: 12-01-2015. Under Secretary (Home)

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Department of Home

Home—General Division

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Order

No. 18/6/2015-HD(G)/687

The Government of Goa is pleased to nominate Director of Tourism, Government of Goa, Shri Ameya Abhyankar, IAS as a representative from the State of Goa for the Task Force constituted by the Ministry of Home Affairs (Department of Border Management), Government of India, New Delhi, to study and examine the holistic development of around 1200 inhabited/uninhabited islands in the Maritime Zones of India.

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 3rd March, 2015.

Office of the Director General of Police

Memorandum

No. CA-III/Sen.Dy.S.P./2128/2015

Sub.: Tentative seniority list of Junior Scale Officers of Goa Police Service, Government of Goa.

A Tentative Seniority list of Junior Scale Officers of Goa Police Service, Government of Goa is drawn and circulated herewith.

2. Representations, if any, against their placement in the tentative seniority list may be made by the Junior Scale Officers of Goa Police Service figuring from Sr. No. 14 to 18 within 04 weeks from the date of receipt of this Memorandum.

3. Representation from Junior Scale Officers of Goa Police Services from Sr. No. 1 to 13 will not be entertained as their seniority list has already been finalized vide Memorandum No. CA-III/Sen.Dy.S.P./4879/2012 dated 13-06-2012.

4. This issues with the approval of DGP, Goa.

**Tentative Seniority List of Junior Scale
Officers of Goa Police Service,
Government of Goa**

| Sr. No. | Name | Date of regular appointment to the post | Remarks |
|---------|------------------------------|---|--|
| 1 | 2 | 3 | 4 |
| 1. | Shri Francis A. M. Fernandes | 01-03-2007 | Ad hoc Supdt. of Police w.e.f. 10-06-2014. |
| 2. | Shri Nilu S. Raut Dessai | 01-03-2007 | — |
| 3. | Shri Umesh Y. N. Gaonkar | 01-03-2007 | Ad hoc Supdt. of Police w.e.f. 10-06-2014. |
| 4. | Shri Shamba M. Sawant | 01-03-2007 | — |
| 5. | Shri Nandakishor C. Raikar | 01-03-2007 | — |
| 6. | Shri Subhash R. N. Goltekar | 01-03-2007 | — |
| 7. | Shri Rohidas K. Patre | 01-03-2007 | — |
| 8. | Shri Guruprasad B. P. Mhapne | 01-03-2007 | — |
| 9. | Shri Mohan S. Naik | 01-03-2007 | — |

| 1 | 2 | 3 | 4 |
|-----|--------------------------------|------------|---|
| 10. | Shri Chandrakant S. Salgaonkar | 25-01-2010 | — |
| 11. | Shri Ananta B. Virnodkar | 25-01-2010 | — |
| 12. | Shri Dinraj R. Govekar | 25-01-2010 | — |
| 13. | Shri Bossuet Silva | 25-01-2010 | — |
| 14. | Shri Sammy Tavares | 14-11-2013 | — |
| 15. | Shri Gajanan V. Prabhudessai | 14-11-2013 | — |
| 16. | Shri Mahesh K. Gaonkar | 14-11-2013 | — |
| 17. | Shri Serafin Dias | 14-11-2013 | — |
| 18. | Shri Lawrence D'Souza | 14-11-2013 | — |

V. U. Borkar, Superintendent of Police (HQ).
Panaji, 26th February, 2015.

◆◆◆
Department of Labour

Notification

No. 28/1/2015-Lab/141

The following award passed by the Labour Court-II, at Panaji-Goa on 02-01-2015 in reference No. LC-II/IT/06/2012 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).
Porvorim, 25th February, 2015.

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**IN THE LABOUR COURT-II
GOVERNMENT OF GOA
AT PANAJI**

(Before Suresh N. Narulkar, Hon'ble Presiding Officer)

Case No. Ref. LC-II/IT/6/12

Shri Newton Franky D'Silva, ... Workman/Party I
H. No. 76, Gomesvaddo,
Majorda, Salcete-Goa

V/s

M/s. ACC Limited, ... Employer/Party II
Gurusaheb Plaza Bldg.,
2nd Floor, Pajifond,
Margao-Goa, 403 601

Workman/Party I represented by Adv. Shri G. B. Kamat.

Employer/Party II represented by Adv. Shri B. G. Goyal.

Panaji, Dated: 02-01-2015.

AWARD

1. In exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 29-10-2012, bearing No. 28/28/2012-LAB/595, referred the following dispute for adjudication to the Industrial Tribunal of Goa. The Hon'ble Presiding Officer, Industrial Tribunal-cum-Labour Court in turn assigned the present dispute to this Labour Court-II vide her order dated 30-10-2012.

- “(1) Whether Shri Newton Franky D'Silva employed as Customer Service Representative can be construed as a 'Workman' as per section 2(s) of the Industrial Disputes Act, 1947 (14 of 1947)?
- (2) If the answer to the issue No. (1) above is in the affirmative, then whether the action of the management of M/s. ACC Limited, Margao, Goa, in terminating the services of Shri Newton Franky D'Silva, with effect from 13-02-2012, is legal and justified?
- (3) If not, what relief, the Workman is entitled to?”

2. On receipt of the reference, a case was registered under No. LC-II/IT/06/12 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party I (for short 'Workman'), filed his Statement of Claim on 03-01-2013 at Exb-5. The facts of the case in brief as pleaded by the Workman are that the Employer/Party II (for short, 'Employer') is a public limited company incorporated under the Companies Act, 1956, having its registered office at Cement House, 121, Maharshi Karve Road, Mumbai, 400 020. He stated that the Employer is engaged in the business of manufacture and sale of cement.

3. He stated that his educational qualification is Diploma in Civil Engineering. He stated that he was appointed by the Employer as 'Customer Service Representative' w.e.f. 01-01-2007. He stated that besides he, there were two other employees namely, Shri Tanvir Hooly and Ms. Daisy Pereira, who were also working as Customer Service Representative. He stated that he was the senior most among all of them. He stated that he

was assigned the entire South Goa area and was reporting to the office of the Employer situated at second floor, Guru Sai Plaza, Pajifond, Margao-Goa. He stated that he was confirmed in the said post of 'Customer Service Representative' vide letter of the Employer dated 01-02-2008. He stated that in or about January, 2012, the Employer started pressurizing him to resign from the service. He stated that since he did not agree to the same, the Employer terminated his services vide their letter dated 13-02-2012 with immediate effect. He stated that his services was terminated without assigning any reason, in terms of clause 7 of the appointment letter dated 16-05-2007 issued to him. He stated that his last drawn consolidated salary was Rs. 27,072/- per month.

4. He stated that as a 'Customer Service Representative', he was predominantly performing the following skilled, technical and clerical nature of duties: (a) Visiting sites where construction activities being taken to know as to whether the products manufactured by the Employer are being used or not and to record the same and further to collect data from construction sites about cement used (manufactured by Employer as well as other manufactures) and its details such as price, quantity and further details such as names of Contractors, Engineers, Architects engaged at the site and report the same to the 'Customer Service In-charge' of the Employer, (b) Meeting end users on site and explaining to them the advantages of using ACC PSC (Portland Slag Cement) and also making the end users aware of the services provided by the Employer, (c) Visiting the offices of the Consulting Engineers, Architects in the area allotted to build up rapport; (d) Making arrangements for meeting to be conducted with Dealer, Retailer, Mason, Contractor, customer to be addressed by the Customer Service In-charge of the Employer; (e) Visiting Dealers to inquire about the details of the customers of the products manufactured by the Employer; (f) Collecting cement samples (manufactured by the Employer as well as other reputed companies) from local dealers and sending the same to Laboratory of Employer situated at Thane, in Mumbai, Wadi in Karnataka and Surla in Goa for testing. (g) Providing services to customers when required; (h) Hearing grievances, if any from the customers of the products manufactured by the Employer and report the same to the Customer Service In-charge of the Employer.

5. He stated that after carrying out the aforesaid duties, he was required to submit a detailed report of all the said activities to the Customer Service

In-charge of the Employer, who in turn used to further submit the said details to the Employer for further action. He submitted that he was performing the aforesaid duties without any assistance of subordinate staff nor was supervising or getting the said work done from the subordinate staff. He submitted that at all the times in performance of the aforesaid duties, he was bound by the instructions of the Customer Service In-charge of the Employer and was supposed to carry out the said duties in accordance with the said instructions and had no independent say in the matter. He therefore submitted that he is a 'workman' as defined u/s 2 (s) of the Industrial Disputes Act, 1947.

6. He submitted that his services came to be terminated by the Employer with immediate effect without assigning any reason. He submitted that though he had completed more than 240 days of service, he was neither paid nor offered notice pay or retrenchment compensation as required under section 25-F of the Industrial Disputes Act, 1947 or bonus, gratuity etc. at or before termination of his service.

7. He submitted that after termination of his services, he filed an appeal before Shri B. Sherdiwala, President-Human Resource Manager, demanding reinstatement in service along with full back wages and continuity in service. He submitted that he also raised a dispute before the Dy. Labour Commissioner, Margao-Goa vide his letter dated 26-03-2012, which ended in failure.

8. He contended that as a 'Customer Service Representative' he was performing the duties which were predominantly skilled, technical and clerical in nature and therefore he is a 'workman' as defined u/s 2 (s) of the Industrial Disputes Act, 1947. He submitted that at the time of termination of his services, he was neither paid nor offered notice pay or retrenchment compensation by the Employer and as such the termination of his services by the Employer is illegal, being in violation of provisions of section 25-F of the Industrial Disputes Act, 1947. He submitted that his services came to be terminated by the Employer, vide their letter dated 13-02-2012 with immediate effect, without assigning any reason and as such the termination of his services is also unjustified. He submitted that after termination of his services, he could not get an alternate employment and is unemployed till date. The Workman therefore prayed for declaration that he may be declared as a 'Workman' as defined u/s 2 (s) of the I. D. Act, 1947. The Workman further

prayed for a declaration that his order of termination dated 13-02-2012, by which his services were terminated with immediate effect is illegal, unjustified and bad-in-law and the Employer be directed to reinstate him back in service with full back wages and continuity in service.

9. The Employer controverted the claim of the Party I by filing its written statement on 13-02-2013 at Exb. 8. The Employer, by way of preliminary objection submitted that the reference made to this Hon'ble Court for adjudication is wholly misconceived and untenable in law and deserves to be dismissed in limine with costs. The Employer admitted that it is engaged in the manufacture of cement and has establishments located all over the countries. The Employer submitted that vide circular dated 08-11-1977, the industries engaged in manufacture and production of cement have been declared as "controlled industry" for the purpose of section 2 (a) (i) of the Industrial Disputes Act, 1947. The Employer therefore submitted that it being a "controlled industry", the Central Government is the Appropriate Government in relation to it. The Employer further submitted that the Party I is not a 'Workman' as defined u/s 2 (s) of the Industrial Disputes Act, 1947. The Employer submitted that the Party I was employed with them as a Customer Service Representative and was in their management cadre viz. grade SG-1. The Employer submitted that the predominant duties of the Party I were to promote their sales/business of their products.

10. The Employer admitted that the Party I was appointed as a 'Customer Service Representative' in grade SG-1 with immediate effect from 01-01-2007, vide their letter dated 02-03-2007. The Employer admitted that the Party I was confirmed in their services vide their letter dated 01-02-2008. The Employer further admitted that the Party I was issued an appointment letter specifying the terms and conditions vide their letter dated 16-05-2007 and was posted at one of the sales unit located in Karnataka. The Employer admitted that the Party I has passed H.S.S.C and holds Diploma in Civil Engineering.

11. The Employer stated that Party I was informed that pursuant to changes in terms of business strategies, organization restructuring, so as to make the organization more accountable and performance oriented, the Party I job was revised to Job Band Level AJB-11 and the Party I would be designated as a 'Junior Executive-Customer

Service'. The Employer stated that as a 'Customer Service Representative', the Party I was required to promote the business of their product. The Employer stated that Party I was primarily required:

- (i) To meet the customers for selling its products,
- (ii) To provide customer service to its various end customers in the designated districts,
- (iii) To interact with its dealers/stockiest in the respective territory allocated to him for promoting its business,
- (iv) To make suggestions to them, its stockiest and dealers, of ways and means to improve the sales and carry out study of market conditions and extend the following post sales service, i.e.
 1. Visiting the sites of the consumers using its cement.
 2. Testing the quality of following materials used for making concrete:
 - (a) Cement,
 - (b) Coarse Aggregates,
 - (c) Fine Sand,
 - (d) Water,
 - (e) Silt Test-Checking of silt content in sand.
 3. When concrete casting is in progress, to carry out jobs of:
 - (a) Slump Testing by ensuring workability of Concrete,
 - (b) Concrete Cube Casting wherein the work of testing of Compressive strength attained by concrete within a period within 7 days to 28 days has to be carried out.
 4. While carrying out jobs of Burnt Brick Masonary (BBM), to check the mortar mix (cement + sand + water) and to ensure that the mix is in the correct proportion.
 5. To ensure that the construction activity was inconsonance with good construction practices.
- (v) To give feed back to them with regard to the competition in the industry relating to its product performance and also their brand promotion activities,
- (vi) To ensure that when its Cement Product was used for making concrete/mortar, while carrying out various processes of testing checking, how its product was performing,

- (vii) To carry out Brand Promotion Activities. The Party I was required to meet Influencers such as Masons, Architects, Engineers regularly and build up relations with them for convincing them to use and recommend the cement manufactured by them. This is generally carried out by way of conducting meetings at various locations and giving them presentation on Good Construction Practices, advising them on Dos & Don'ts while working at construction sites etc., which will create brand awareness and thereby generate orders,
- (viii) To track and report quality of its product through on site test market sampling. The Party I had to ensure that when the concrete/mortar work was in progress at site using its cement, testing was carried out satisfactorily on fresh concrete like Slump Test, Concrete Cube Testing which would prove that the concrete made with its cement had attained the required strength. Consequently, the cement sample would be collected from the site and tested at TSS, Thane to ensure good quality of its Cement at the site,
- (ix) To collect independent feedback from end customers about the selling process (price, service levels, quality, etc.) and report the same to Customer Service In-charge,
- (x) To manage relationship with key Accounts i.e. all consumers who purchase the cement in large quantities say 100 MT or above, key influencers like masons, contractors, architects and engineers from the area of operation so that they have an easy recall of ACC cement, visiting counters of authorized cement dealers and retailers etc.

12. The Employer stated that the Party I, has been carrying out the job in respect of achieving targeted sales, developing new customers/end customers and achieving sales and promoting business in specified territories. The Employer stated that the Party I, by the very nature of his duties, would meet their end customers, interact with them, discuss their problems, analyze the same and offer suitable solution to the customer. The Employer stated that the Party I would convince their customers to buy their products and would offer guidance to the customers in respect of use of the product etc. and explain to them the benefits of the products. The Employer submitted that the job performed by the Party I required him to exercise his discretion and use

innovative and creative means so as to satisfy their customers. The Employer submitted that the Party I was required to use his knowledge and judgment and exercise his discretion while performing the said jobs. The Employer submitted that the Party I was required to ensure that the aforesaid jobs carried out by him were performed in a satisfactory manner in accordance with the guidelines laid down by them, so that the customers would get satisfaction in that regard. The Employer stated that the Party I, being in the management cadre, i.e. SG-1, his emoluments, including perquisites were also on the basis of what was determined by them from time to time. The Employer submitted that the Party I has worked for the management and has assisted the team and done such spade work which would help the management team to take appropriate decisions on such matters as affect them. The Employer therefore submitted that taking into consideration the dominant nature of duties performed by the Party I, he do not fall within the ambit of definition of 'workman' as defined u/s 2 (s) of the Industrial Disputes Act, 1947.

13. The Employer submitted that there is a practice in their company for maintaining appraisal sheets, wherein the performance of the Party I was appraised by his immediate superior. The Employer submitted that the said appraisal sheet specify the goals to be achieved by the concerned employee, his targets, his business objectives, result achieved by him etc. The Employer submitted that a perusal of the said documents will clearly shows that the nature of duties carried out by the Party I do not fall within the definition of 'workman' as defined u/s 2 (s) of the Industrial Disputes Act, 1947.

14. The Employer stated that on 13-02-2012 the services of the Party I came to be terminated by them inconsonance with the terms and conditions of its appointment vide clause 7.0 of his appointment letter dated 16-05-2007. The Employer stated that Party I was informed that his services stood terminated in terms of his appointment letter and that he would be paid two months basic salary in lieu of two months' notice. The Employer submitted that the action of termination of services of the Party I was in consonance with the terms and conditions of his appointment. The Employer submitted that its action in terminating the services of the Party I is legal, proper and inconsonance with the terms and conditions of his employment. The Employer

denied the overall case of the Party I as pleaded in his statement of claim and prayed for rejection of the present reference in toto.

15. Thereafter, the Party I filed his rejoinder on 02-04-2013 at Exb.10. The Party I by way of his rejoinder, reiterates all the submissions and averments made by him in his claim statement to be true and correct and denies all the statements and averments made by the Employer in its written statement, which are contrary and inconsistent with the statements and averments made by him. The Party I submitted that the State Government is competent to make the present reference and as such the present reference is competent and maintainable.

16. Based on the pleadings filed by the respective parties herein above, this court framed the following issues on 08-04-2013 at Exb. 12.

1. Whether the Workman/Party I proves that he is a "Workman" within meaning Sec. 2 (s) of the Industrial Disputes Act, 1947?
2. Whether the Workman/Party I proves that the action of the Party II/Employer in terminating his services w.e.f. 13-02-2012 is illegal and unjustified?
3. Whether the Employer/Party II proves that the present Order of Reference is not maintainable in law in view of the reasons mentioned in Para 1 of their Written Statement?
4. Whether the Workman/Party I proves that he is entitled to any relief?
5. What Order? What Award?

17. My answers to the aforesaid issues are as under:

- I. Issue No. 1.....In the negative.
- II. Issue No. 2.....Does not arise.
- III. Issue No. 3.....In the negative.
- IV. Issue No. 4.....In the negative.
- V. Issue No. 5.....As per final order.

REASONS

18. *Issue No. 1:* I have heard the oral arguments of Ld. Advocates appearing for the respective parties. Both the parties have also filed their synopsis of written arguments respectively in support of their case.

Ld. Adv. Shri G. B. Kamat, representing the Party I submitted that the Party I who is a Diploma in Civil Engineers, was working with the Employer

Company as a 'Customer Service Representative' w.e.f. 01-01-2007. He drew my attention to para 6 of his affidavit in evidence, wherein duties of the Party I have been specified. He submitted that the said predominant nature of duties performed by the Party I were mainly skilled, technical and clerical in nature. He submitted that Party I was performing his duties independently without any assistance of subordinate staff nor was supervising or getting the said work done from subordinate staff. He submitted that at all times in the performance of the aforesaid duties, the Party I was bound by the instructions of Customer Service In-charge of the Employer and had no independent say in the matter. He submitted that Party I was not discharging any managerial, supervisory or administrative duties. He therefore submitted that Party I is a 'workman' within the meaning of section 2(s) of the I.D. Act, 1947. He relied upon a judgment of Hon'ble Supreme Court of India in the case of **Mukund Ltd. v/s Mukund Staff and Officers Association, reported in 2004 (2) LLN 122.**

19. On the contrary, Ld. Adv. Shri B. G. Goyal, representing the Employer, during the course of his oral arguments submitted that the Party I was appointed as 'Customer Service Representative' in the management cadre in Grade SG-1. He submitted that the Party I, during the course of his cross-examination, admitted of having performed the duties as 'Customer Service Representative' which has been specified by the Employer in its written statement filed in the present proceedings and also stated in the affidavit in evidence of their sole witness Shri Ameet Lawande. He submitted that the said predominant duties performed by the Party I were to promote the sales/business of the Employer product. He submitted that the said predominant duties requires the imaginative as well as creative mind and as the said duties are not stereotype. He therefore submitted that the said predominant nature of duties performed by the Party I as a 'Customer Service Representative' could not be termed as skilled, semi-skilled, unskilled, manual, technical, clerical or operational in nature, but certainly falls within the exception of the definition of 'workman' as defined u/s. 2(s) of the I.D. Act, 1947. He submitted that as a 'Customer Service Representative', the Party I was predominantly performing the duties of Supervisory, Administrative and Managerial in nature. He therefore submitted that the Party I is not a 'workman' as defined under section 2 (s) of the I.D. Act, 1947. In support of his oral contention he relied upon the following three judgments of Hon'ble Supreme Court of India.

- (a) In the case of H.R. Adyanthaya v/s Sandoz (India) Ltd. reported in 1994 II CLR 552.
- (b) In the case of Management of M/s. Sonepat Co-op. Sugar Mills Ltd. v/s Ajit Singh, reported in 2005 LLR 309.
- (c) In the case of T. P. Srivastava v/s National Tobacco Co. (I) Ltd., reported in 1992 (1) LLN 13.

He also relied upon following five judgments of Hon'ble High Court of Bombay.

- (a) In the case of B. S. Kurup v/s National Bicycle Corpn. of India Ltd and Ors., reported in 1995 II CLR 316.
- (b) In the case of Ramesh s/o Ramarao Wase v/s The Commissioner, Revenue Division, Amaravati, reported in 1996 I LLJ 55.
- (c) In the case of Inthru Noronha v/s Colgate Pamolive (India) Ltd. and Ors., reported in 2005 LAB. I. C. 1500.
- (d) In the case of Standard Chartered Bank v/s Vandana Joshi and Anr., reported in 2010 LLR 200 and
- (e) In the case of Narsinha Anant Joshi v/s M/s. Century Shipping and Ors., reported in 1994 I CLR 717.

I have carefully considered the various oral as well as written submissions made by the respective parties. I have also carefully considered the entire records of the present case and is of the considered opinion as under:

20. The Employer resisted the claim of the Party I, by alleging that the Party I is not a "Workman" within the meaning of Sec. 2 (s) of the I. D. Act, 1947. The burden to prove that he is a "Workman" as defined under section 2(s) of the I. D. Act, 1947, is on the Party I. It is therefore necessary to refer to the provisions of Sec. 2 (s) of the I. D. Act, 1947 which defines the term "Workman".

"Section 2 (s), "Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be expressed or implied and for the purposes of any proceedings under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or a consequence of that dispute or dismissal, discharge or retrenchment has led to that dispute, but does not include any such person

- (1) *who is subject to the AIR Force Act, 1950 (45 of 1950) or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or*
- (2) *who is employed in the police service or as an Officer or other employee of a prison or*
- (3) *who is employed mainly in a managerial or administrative capacity*
- (4) *who, being employed in a supervisory capacity draws wages exceeding Rs. 1,600/- per mensem or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."*

Thus, from the plain reading of definition of "Workman" under the I. D. Act, 1947, it is clear that in order to prove the concerned employee is a 'Workman' or not within the meaning of the said act, he/she must prove that he/she was employed in an 'Industry' as defined under the said Act and secondly he/she was employed to perform any of the work such as to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward.

21. Before analyzing the facts of the present case, I would like to discuss the various judgments of the Hon'ble Supreme Court of India as well as Hon'ble High Courts relied upon by the Ld. Advocates appearing for the respective parties.

22. In the case of **H.R. Adyanthaya v/s Sandoz (India) Ltd. reported in 1994 II CLR 552**, the Hon'ble Supreme Court of India has observed as under:

"We thus have three three-bench decisions which have taken the view that a person to be qualified to be a workman must be doing the work which falls in any of the four categories; viz. manual, clerical, supervisory or technical and two two-judge Bench decisions which have by referring to one or the other of the said three decisions have reiterated the said law. As against this, we have three three-judge Bench decisions which have without referring to the decisions in May & Baker, WIMCO and Burmah Shell cases (supra) have taken the other view which was expressly negative, viz., if a person does not fall within the four exceptions to the said definition he is a workman within the meaning of the I.D. Act. These decisions are also based on the facts found in those cases. They have, therefore, to be confined to those

facts. Hence the position in law as it obtains today is that a person to be a workman under the I.D. Act must be employed to do the work of any of the categories, viz., manual, unskilled, skilled, technical, operational, clerical or supervisory. It is not enough that he is not covered by either of the four exceptions to the definition. We reiterate the said interpretation".

23. In the case of Management of M/s. Sonepat Co-op. Sugar Mills Ltd. v/s Ajit Singh, reported in 2005 LLR 309 of Hon'ble Supreme Court of India, the Respondent was employed as Legal Assistant. He was not only used to render legal opinions on a subject, but also drafting the pleadings on behalf of the Appellant's Society besides representing before various courts/authorities. The Hon'ble Court held that the said job is not stereo type, but it involved creativity in performing the said job. The Hon'ble Court has held that such a job, would not make him a 'workman' as defined under section 2 (s) of the I.D. Act, 1947. The Hon'ble Apex Court further observed as under:

"A person who performs one or the other jobs mentioned in the aforementioned provisions only would come within the purview of definition of workman. The job of a clerk ordinarily implies stereotype work without power of control or dignity or initiative or creativeness. The question as to whether the employee has been performing a clerical work or not is required to be determined upon arriving at a finding as regard the dominant nature thereof. With a view to give effect to the expression to do "any manual, unskilled, skilled, technical, operational, clerical or supervisory work", the job of the concerned employee must fall within one or the other category thereof. It would, therefore, not be correct to contend that merely because the employee had not been performing any managerial or supervisory duties, ipso facto he would be a workman".

24. In the case of **T.P. Srivastava v/s National Tobacco Co. (I) Ltd., reported in 1992 (1) LLN 13**, the Hon'ble Supreme Court of India has held as under:

"In order to come within the definition of workman under the Industrial Disputes Act as it stood in the year 1973 when the appellant's service was terminated, the employee has to be under the employment to do the work of one of the types of work

*referred to in the section, i.e., manual, skilled and/or clerical in nature. The finding of the Tribunal on the nature of the work is a finding on a question of fact and it is also borne out by the document produced before Labour Court. It is seen from the facts found that the appellant was employed to do canvassing and promoting sales for the company. The duties involve the suggesting of ways and means to improve the sales, a study of the type or status of the public to whom the product has to reach and a study of the market condition. He was also required to suggest about the publicity in markets and melas, advertisements including the need for posters, holders and cinema slides. These duties do require the imaginative and creative mind which could not be termed as either manual, skilled, unskilled or clerical in nature. The supervising work of the other local salesman was part of his work considered by the Tribunal as only incidental to his main work of canvassing and promotion in the area of his operation. Such a person cannot be termed as a workman is also the ratio of the decision of this Court in *Burmah Shell Oil Storage and Distribution Company v/s Burmah Shell Management and Staff* reported in A.I.R. 1971 S.C. 922, *D.S. Nagaraj v/s Labour Officer, Kurnool*, and others, 1973-I L.L.N 161, *J.J. Deehane Distributor v/s. State of Kerela and others* 1975-II L.L.N 353”.*

Thus, in order to come within the definition of ‘workman’ as defined under section 2 (s) of the I.D. Act, 1947, one has to prove that he must be doing the work which falls in any of the four categories viz. manual, skilled, unskilled, technical, operational or clerical and it is not enough that he is not covered by either of the four exceptions to the definition of the ‘workman’. The said principle laid down by the Hon’ble Apex Court in its aforesaid 3 judgments is well established and there is no dispute about the same.

25. In the case of **B.S. Kurup v/s National Bicycle Corpn. of India Ltd and Ors., reported in 1995 II CLR 316**, before the Hon’ble High Court of Bombay, the Appellant was appointed as ‘Sales Representative’ and his predominant duties were to canvass for sales and orders of the First Respondent. The Hon’ble High Court after relying upon the ratio laid down by the Hon’ble Apex Court in its case of *H.R. Adyanthaya etc. v/s Sandoz (India) Ltd.*, held that the Petitioner

was not employed to do any such work of any of the categories, manual, unskilled, skilled, technical, operational, clerical or supervisory which are enumerated in the main body of the definition of the ‘workman’ as defined u/s 2 (s) of the I.D. Act, 1947 and therefore the Labour Court’s view that the Petitioner was not a ‘workman’ within the meaning of section 2 (s) of the I.D. Act, is quite correct and needs to be upheld.

26. In the case of **Ramesh s/o Ramarao Wase v/s The Commissioner, Revenue Division, Amaravati, reported in 1996 I LLJ 55**, before the Hon’ble High Court of Bombay, the Petitioner was class II Gazetted Officer. He was designated as Sectional Engineer and was drawing salary of over Rs. 4,000/- p.m. The Hon’ble High Court held that the Petitioner is not a ‘workman’ as defined u/s 2 (s) of the I.D. Act, 1947 by explaining the meaning of the term ‘supervisory’ as under:

“8..... It is popularly believed that in order to dub the work as a “supervisory”, the person concerned must have control over the subordinates and the person concerned should have the power to sanction leave, give promotion etc. which is only one of the facts of the supervisory work. That is not the be all and end all of the term “supervisory” be made in some other different way, like over the quality of the work and over other aspects such as to see and examine whether the work is completed or not in satisfactory manner and in keeping with the specifications, that also becomes the supervisory work. It is, therefore, clear that really speaking, none of the duties of the Petitioner are of technical nature, but are of supervisory nature.

The Hon’ble High Court in para 11 of its judgment also explained the meaning of the term ‘technical’ as under:

11. The word ‘technical’ has not to be read in contradistinction with the word ‘simple’. All the work which requires technical knowledge need not necessarily be technical work. The word ‘technical’ has different connotation. In the ‘technical’ work, therefore would hardly be any scope for judging, opining or evaluating. It cannot, therefore, be held that a duty to treat the patient is merely of a technical nature. If that be so, even a surgeon will be doing a ‘technical job’. That cannot be the import of law. The labour law is meant for the welfare of labourers. If Labour Courts under that law waste their time in holding that the doctors and engineers are labourers and deciding their claims, it will be an unfortunate state of affairs”.

27. In the case of **Inthru Noronha v/s. Colgate Pamolive (India) Ltd. and Ors., reported in 2005 LAB. I. C. 1500**, before the Hon'ble High Court of Bombay, the Petitioner was initially appointed as 'clerk' and subsequently promoted to executive cadre. After promotion, his salary and allowances were revised from time to time. The Hon'ble High Court held that the Petitioner is not a 'workman' as defined u/s 2(s) of the I.D. Act, 1947 by defining the term 'manager' in para 24 of its judgment as under:

"24..... A manager has been defined as a person who controls and administers a business or part of a business. The expression implies certain control and authority. That a person has no subordinate does not imply that he has no control or authority. In Dhruba Kumar Changkokoti v/s Trave Corporation of India Ltd. 2000 II CLR 814 where the employee concerned was appointed as in charge of the work of a travel agent in Soviet Union/Eastern Europe, the Court noted that the employee was required to correspond with the other organizations on behalf of his employer; that he was looking after the business and was promoting the business of the employer in a certain territory. He was in other words held to be discharging a part of the function on behalf of the employer viz. that of promoting the business and was, therefore, engaged in a managerial capacity".

28. In the case of **Standard Chartered Bank v/s Vandana Joshi and Anr., reported in 2010 LLR 200**, the Hon'ble High Court of Bombay also explained the meaning of the term 'Manager' in para 18 of its judgment as under and held that the Respondent is not a 'workman' within the meaning of section 2 (s) of the I.D. Act, 1947.

"The fact that in an organization structure the employee, in the course of the decision making process, is subject to checks and balances is not a matter which would establish that she/he is a workman within the meaning of Section 2(s). Modern forms of business in corporate organizations put into place a carefully crafted process of checks and balances. Rarely, if ever, would an employee have authoritarian control over business decisions. Employee are made subject to verification or subject to a system of controls and balances does not establish that the employee is a workman within the meaning of Section 2(s). Managers do not become workmen because their decisions are

structured by process and approvals. Absolute autonomy is not the norm in managerial decision making. Nor does the law insist on absolute discretion or absolute autonomy for a person to be a manager. Basically the answer to the question must depend upon the dominant nature of the duties and responsibilities".

29. In the case of **Narsinha Anant Joshi v/s M/s. Century Shipping and Ors., reported in 1994 I CLR 717**, before the Hon'ble High Court of Bombay, the Petitioner was employed as 'Technical Officer' in the employment of Respondent Company. In a reference, the Labour Court held that the Petitioner is not a 'workman' as defined u/s 2 (s) of the I.D. Act, 1947. The Hon'ble High Court disposed off the writ petition filed before it by upholding the award passed by the Labour Court by observing as under:

"9. The sole question for determination, in the present case, therefore, is whether the petitioner-employee can be called a workman employed to the clerical work or employed in administrative capacity. The nature of work of the petitioner-employee, the various duties performed by him, his status and position in the company, his ranking—all clearly go to show that he was employed mainly in the administrative capacity and any work which can be termed as work of clerical nature done by him was only incidental to his employment in the administrative capacity. In that view of the matter, in my opinion, the Labour Court was justified in holding that the petitioner was not a workman and, hence, the reference was not maintainable. Writ Petition No. 3047 of 1988 has, therefore, no merit and is dismissed".

30. In the case of **Mukund Ltd. v/s Mukund Staff and Officers Association, reported in 2004 (2) LLN 122**, the Hon'ble Apex Court has held that "question whether or not a person is workman is not be decided on the basis of the grades in which the said person is placed but on the basis of their duties, responsibilities and powers".

31. In the case in hand, admittedly the Party I was designated as 'Customer Service Representative' and was put in SG-1 grade. As a 'Customer Service Representative', the duties and responsibilities of the Party I, has not been given in writing in the appointment order issued to him or anytime subsequently. It is therefore necessary to find out the predominant nature of duties and responsibilities of Party I, which he was

performing at the time of termination of his services. The Party I has examined himself as his sole witness to prove his case. On the contrary, the Employer has examined Shri Amit Lawande, its Customer Service In-charge as their sole witness.

32. The Party I has deposed the same duties as stated in claim statement. The Party I, has however, in his cross-examination admitted that as a 'Customer Service Representative' he was promoting the sales of the Employer Company. He deposed that he was explaining the contractors, masons and customers of the Employer about the quality and services of the Employer's product. He deposed that he was interacting with the company's customers pertaining to the sale of product of the company. He admitted that in the event if any of the customers of the Employer had problem while using their product, he used to solve the problem by explaining to them. He admitted that he used to meet the Employer's dealers and stockiest and interacting with them pertaining to the promotion of business of the Employer company. He admitted that after interacting with the dealers and stockiest of the Employer Company, he used to get feedback about the Employer's product and he was giving the said feedback to the company. He deposed that he was giving his suggestions pertaining to the promotion of business of the Employer Company to the Customer Service In-charge. He admitted that he used to track the competitors activities. He admitted that he was visiting the sites of the consumers, who were using Employer's product. He admitted that he used to bring to the notice of Employer's customers about the maintenance of the norms as laid down by Bureau of Indian Standard Norms. He admitted that he used to meet masons, architects, and engineers etc. for convincing them to use the product of the Employer Company and also used to arrange meetings with the aforesaid persons. He admitted that he had developed new customers and end customers for the Employer Company by explaining them the advantages of the Employer's product. He admitted that based on his information submitted to the Employer, the Employer Company used to frame its market strategy. He admitted that he was identifying the territory where the business promotion of the company's product was required.

33. On the contrary, the Employer examined Shri Ameet Lawande, a Customer Service In-charge, to prove its case. The said Shri Ameet

Lawande, in his affidavit in evidence deposed the same duties, which have been admitted by the Party I in his cross-examination.

34. Thus, as a 'Customer Service Representative', the predominant nature of duties performed by the Party I was to promote the business of the Employer's product and for that purpose, he was required to take certain steps accordingly. The aforesaid duties performed by the Party I as a 'Customer Service Representative' are not stereotype, but it certainly requires creative and innovative mind. Taking into consideration the law laid down by the Hon'ble Apex Court as well as Hon'ble High Court of Bombay in its aforesaid judgment respectively, in my considered opinion, the aforesaid predominant nature of duties performed by the Party I as a 'Customer Service Representative' do not fall in any of the categories viz. manual, unskilled, skilled, technical, operational and clerical, but certainly falls in supervisory, administrative and managerial category. The Party I, therefore do not fall within the meaning of expression 'workman' as defined u/s 2 (s) of the I.D. Act, 1947. Among the aforesaid judgments, the judgment in the case of T.P. Srivastava of Hon'ble Apex Court is squarely applicable to the case in hand. Hence, it is held that the Party I failed to prove that he is a 'workman' as defined u/s 2(s) of the I.D. Act, 1947. It is therefore held that the Party I is not a 'workman' as defined u/s 2(s) of the I.D. Act, 1947. The issue No. 1 is therefore answered in the negative.

35. *Issue No. 3:* I am deciding the issue No. 3 first, prior to the issue No. 2 as the present issue No. 3 goes to the very root jurisdiction of this Hon'ble Court.

I have heard the oral arguments of Ld. Advocates appearing for the respective parties. Both the parties have also filed their synopsis of written arguments in support of their case.

36. Ld. Adv. Shri G. B. Kamat, representing the Party I submitted that the Employer is involved in the manufacture of cement product. He submitted that in view of the notification dated 08-12-1977 issued by the Union of India exercising its power u/s 39 of the I. D. Act, 1947, the Central Government as well as the State Government have concurrent jurisdiction to try and entertain the reference in relation to cement industry under the Industrial Disputes Act, 1947 except in case of mines and quarry. He submitted that the reference made by the State Government is competent in law. In support of his submission, he relied upon

a judgment in the case of **Shri Yovan, India Cements Employees Union and Anr. v/s Management of India Cements and Ors., reported in AIR 1994 SC 558**, of Hon'ble Supreme Court of India.

37. On the contrary, Ld. Adv. Shri B. G. Goyal, representing the Employer, during the course of oral arguments submitted that the Employer is involved in the manufacture and sale of cement. He submitted that vide circular dated 08-11-1977, the industries engaged in manufacture and production of cement have been declared as 'controlled industry' for the purpose of section 2 (a) (i) of the Industrial Disputes Act, 1947. He therefore submitted that the Employer Company being a controlled industry, the Central Government is the Appropriate Government in relation to it and as such the present reference made by the Central Government is not maintainable in law. He submitted that provisions of Section 39 of the I.D. Act, 1947 permitted the Central Government to delegate its powers to State Government, but the delegatee cannot acquire a status equivalent to that of delegator. He submitted that the delegator is never denuded of its powers and can strip off the powers of its delegatee. He therefore submitted that the State Government cannot be treated as Appropriate Government in relation to Industrial Dispute concerning cement industry. In support of his oral contention, he relied upon the following judgments:

- (a) In the case of Ultra Tech Cement Ltd v/s Shirinivas N. Moharil, reported in 2010 1 CLR 656 of Hon'ble High Court of Bombay.
- (b) In the case of Mazgaon Dock Ltd. v/s Shivbrat Jagroop Mishra and Anr., reported in 2008 III CLR 755 of Hon'ble High Court of Bombay.
- (c) In the case of Bharat Petroleum Corporation v/s Harun Jafer Shaikh, reported in 2005 1 LLJ 808 of Hon'ble High Court of Bombay.
- (d) In the case of Workmen of Bagalkot Udyog Ltd. v/s Bagalkot Udyog Ltd and Ors., reported in 2000 LAB. I.C. 3219 of Hon'ble High Court of Karnataka.

I have carefully considered the various oral as well as written submissions made by the respective parties. I have also carefully considered the entire records of the present case and is of considered opinion as under:

38. In the present case, it is not in dispute that the Employer Company is engaged in the manufacture and sale of cement and has establishment all over the country. It is also not in dispute that vide circular dated 08-11-1977, the industries engaged in manufacture and production of cement have been declared as "controlled industry" for the purpose of section 2 (a) (i) of the Industrial Disputes Act, 1947. It is also not in dispute that by virtue of the said notification, the Central Government is the appropriate Government under the Industrial Disputes Act, 1947 in relation to cement industry. It is further admitted that the Government of India, vide notification dated 08-12-1977, issued in exercise of its powers vested u/s 39 of the I.D. Act, 1947, notified its powers as appropriate Government under the Industrial Disputes Act, 1947 shall also be exercisable by the State Government in relation to cement industry, except in relation to mines and quarry industry. It is the contention of Ld. Adv. Shri G. B. Kamat appearing for the Party I that in view of the notification issued by the Central Government u/s 39 of the I.D. Act, 1947, both Central as well as State Government have concurrent jurisdiction in relation to cement industry under the Industrial Disputes Act, 1947 except in the case of mines and quarries forming part of cement industry. He relied upon a judgment in the case of **Shri Yovan, India Cements Employees Union and Anr. v/s Management of India Cements and Ors., reported in AIR 1994 SC 558**, wherein, the Hon'ble Apex Court has held that "*both Central and State Government have concurrent jurisdiction in relation to 'cement industry' under Industrial Disputes Act, 1947, except in case of mine and quarry and hence the reference made by the State Government is competent in law*". Admittedly, the Hon'ble Apex Court, in para 8 of its judgment observed that both Central and State Government are appropriate Government under the Industrial Disputes Act and hence reference made by the Government of Tamil Nadu was held to be valid. The Hon'ble Apex Court has come to the aforesaid conclusion, on the basis of the stand taken by union of India in its counter affidavit that both Central as also the State Governments are the appropriate Government in view of the notification dated 08-12-1977.

39. The aforesaid judgment of the Hon'ble Apex Court has been distinguished by the Hon'ble High Court of Karnataka in its judgment in the case of **Bagalkot Udyog Ltd. v/s Bagalkot Udyog Ltd. and Ors., reported in 2000 LAB. I.C. 3219**, wherein, the Hon'ble High Court has held that

"11. It is amply clear from Section 39 of the I.D. Act and the above notification issued by the Central Government that the State Government has been delegated with certain powers exercisable by the Central Government under the I. D. Act and nothing beyond. Pursuance to the above provisions, the State Government's status as relating to the cement industry remains that of a delegatee of the Central Government being the appropriate Government. It is well establishment that a delegatee cannot acquire a status equivalent to that of delegator because despite delegating its powers, the delegator is never denuded of the same. On the other hand, it has an unrestricted right to strip off the powers of its delegatee. Consequently, it has to be held that even for the purpose of the I.D. Act, the State Government cannot be treated as an appropriate Government in relation to an industrial dispute concerning cement industry in terms of the definition of appropriate Government as set out in Cl. (a) of Section 2 of the I.D. Act". The Hon'ble High Court in para 12 and 13 of its judgment discussed the judgment of Hon'ble Apex Court in the case of **Shri Yovan, India Cements Employees Union and Anr.**, and held that since the State Government cannot be held to be an appropriate Government in relation to cement industry as per the definition u/s 2 (a) (i) of the I.D. Act, it cannot be an appropriate Government in relation to the said industry under the Act.

40. In the case of **Mazgaon Dock Ltd. v/s Shivbrat Jagroop Mishra and Anr.**, reported in **2008 III CLR 755**, the Division Bench of Hon'ble High Court of Bombay taken the similar view to that of the view taken by the Hon'ble Karnataka High Court in its case of **Workmen of Bagalkot Udyog Ltd.** The Hon'ble High Court in para 12 of its judgment held that "Perusal of Section 39 shows that it empowers the appropriate Government, if it is the Central Government to delegate its powers to the subordinate officers and also to the State Government and if the appropriate Government is the State Government to delegate its powers to the officer subordinate to it. By Section 39 powers of the appropriate Government are conferred on the authorities mentioned in Section 39. Section 39 does not designate those officers or Government as appropriate Government. It is clear that even if the Central Government is the appropriate Government, even after delegating its powers to the officers subordinate to it, the Central Government will continue to the appropriate Government and the officer to whom the powers are delegated will not become the appropriate Government. The officer will be merely exercising

the power of the appropriate Government. Same is the case, if the powers are delegated by the Central Government to the State Government. The appropriate Government will continue to be the Central Government though the State Government will be authorized as a delegate of the appropriate Government to exercise the powers of the Central Government".

41. In another recent case of **Ultra Tech Cement Ltd v/s Shirinivas N. Moharil**, reported in **2010 1 CLR 656**, the Hon'ble High Court of Bombay reiterated the same view as taken by its Division Bench in the case of **Mazgaon Dock Ltd. v/s Shivbrat Jagroop Mishra and Anr.**, after relying upon a judgment of Hon'ble Karnataka High Court in the case of **Workmen of Bagalkot Udyog Ltd. v/s Bagalkot Udyog Ltd. and Ors.** The Hon'ble High Court also distinguished the judgment of the Hon'ble Apex Court in the case of **Shri Yovan, India Cements Employees Union and Anr. v/s Management of India Cements and Ors.** The Hon'ble High Court in para 12 of its judgment has held as under:

"12. The Division Bench of this Court has already concluded the controversy. Even if it is presumed that Central Government as also State Government are also appropriate Government for cement industry, it becomes clear that provisions of MRTU & PULP Act cannot apply as Central Government then continues to be and also remains an appropriate Government. In my humble opinion, State Government while acting as appropriate Government discharges the role as an agent of Central Government and hence for the purpose of Section 2(3), it cannot be said that for cement industry, State Government is appropriate Government. The provisions of MRTU & PULP Act, therefore, cannot apply to industry of the petitioner. The impugned order is, therefore, unsustainable. The same is accordingly quashed and set aside. The application for dismissal of complaint filed by the petitioner before Labour Court is allowed and Complaint (ULP) No.186 of 1993 on the file of Labour Court, Chandrapur, instituted by present respondent is dismissed".

42. In the case of **Bharat Petroleum Corporation v/s Harun Jafer Shaikh**, reported in **2005 1 LLJ 808**, the Hon'ble High Court of Bombay has held as under:

"2. The entire reasoning of the Labour Court is faulty. The MRTU and PULP Act can be invoked only when the State Government is

the appropriate Government in relation to a particular industry. Section 2 (a) of the Industrial Disputes Act, 1947 indicates the Central Government is the appropriate Government in relation to any industrial dispute concerning the industry as may be specified by the Central Government. Notifications have been issued in pursuance to sub-clause (i) clause (a) of Section 2 of the Industrial Disputes Act, 1947 indicating that industries engaged in the manufacture of production of mineral oil (crude oil), motor and aviation spirit, diesel oil, kerosene oil, fuel oil, diverse hydrocarbon oils and their blends including synthetic fuels, lubricating oils and the like are declared as a controlled industry under the provisions of section 2 (a) (i) of the Industrial Disputes Act, 1947 for a period of two years from June 21, 1992. The Notification of May 6, 1994 indicates that the Government has extended the continuation of these industries to be controlled industries for a further period of two years. There is no dispute that the Bharat Petroleum Corporation is an industry engaged in the manufacture of petroleum products which have been mentioned in the Notification. In these circumstances, it is difficult to accept the view taken by the Labour Court that the MRTU and PULP Act can be invoked by the first respondent. It is only when a State Government is the Appropriate Government in relation to a particular industry that a party can invoke the MRTU and PULP Act, in the present case, there is no doubt that the appropriate Government is the Central Government and, therefore, no relief can be obtained under the MRTU and PULP Act."

43. Thus, from the aforesaid judgments, it is clear that the Employer being a 'Controlled Industry', the Central Government is the appropriate Government under the I. D. Act, 1947 in relation to it. The Central Government also continued to be the appropriate Government, even after delegating its power to the State Government, vide notification dated 08-12-1977 issued u/s 39 of the I. D. Act, 1947. The State Government is also authorized as a delegatee of the appropriate Government to exercise the powers of the Central Government in view of the notification issued u/s 39 of the I. D. Act, 1947. In the circumstances,

both Central Government as well as the State Government are competent to adjudicate the present reference issued by the State Government. Hence, it is held that the reference made to this Court by the State Government u/s 10 (1) (d) of the I. D. Act, 1947 is maintainable in law. The issue No. 3 is therefore answered in the negative.

44. *Issue No. 2:* While deciding the issue No. 1 hereinabove, I have come to the conclusion and held that the Party I is not a 'workman' within the meaning of section 2 (s) of the I.D. Act, 1947 and hence, the reference made by the State Government is incompetent and bad-in-law. Hence, the question as to whether the action of the Employer in terminating the services of the Party I w.e.f. 13-02-2012 is illegal and unjustified, does not arise. The issue No. 2 is therefore answered accordingly.

45. *Issue No. 4:* While deciding the issue No. 1 hereinabove, I have come to the conclusion and held that the Party I is not a 'workman' within the meaning of section 2 (s) of the I.D. Act, 1947 and hence, the reference made by the State Government is incompetent and bad-in-law. The Party I is therefore not entitled for any relief from this court.

In view of the above, I proceed to pass the following order:

ORDER

1. It is held that Shri Newton Franky D'Silva employed as 'Customer Service Representative' is not a 'workman' as defined under section 2 (s) of the Industrial Disputes Act, 1947 (14 of 1947).
2. It is further held that the dispute as to whether the action of the management of M/s. ACC Limited, Margao, Goa, in terminating the services of Shri Newton Franky D'Silva, with effect from 13-02-2012, is legal and justified, does not arise as the reference is incompetent and bad-in-law.
3. Shri Newton Franky D'Silva, the Party I herein above is not entitled to any relief.
4. No order as to costs.
5. Inform the Government accordingly.

Sd/-

(Suresh N. Narulkar)
Presiding Officer,
Labour Court-II.

Notification

No. 28/1/2015-Lab/142

The following award passed by the Labour Court-II, at Panaji-Goa on 28-01-2015 in reference No. LC-II/IT/10/2014 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).
Porvorim, 25th February, 2015.

IN THE LABOUR COURT-II
GOVERNMENT OF GOA
AT PANAJI

(Before Suresh N. Narulkar, Hon'ble Presiding Officer)

Case No. Ref. LC-II/IT/10/14

Shri Raghoba Matkar ... Workman/Party I
Rep. by the Secretary,
KTC Drivers & Allied
Employees Association,
2nd Floor, Velho's Building,
Panaji-Goa

V/s

M/s. Kadamba Transport ... Employer/Party II
Corporation Ltd.,
Porvorim-Goa

Workman/Party I remained absent.

Employer/Party II represented by its employee.

Panaji, Dated: 28-01-2015.

AWARD

1. In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa, by Order dated 30-09-2014, bearing No. 28/28/2014-LAB/574, referred the following dispute for adjudication to the Labour Court II at Panaji, Goa.

- "1. Whether change in designation without changing pay scale amounts to up-gradation?
2. If the answer to issue No. (1) above is in the negative, then whether Shri Raghoba R. Matkar, Assistant Auto Mechanic is entitled to Modified Assured Career Progression Scheme (MACPS) from M/s. Kadamba Transport Corporation Limited, Alto, Porvorim, Goa?"

2. On receipt of the reference, a case was registered under No. LC-II/IT/10/2014 and a registered A/D notice was issued to the Employer. The Workman/Party I (for short 'Workman') represented by the Secretary, KTC Drivers & Allied Employees Association, 2nd Floor, Velho's Building, Panaji-Goa was duly served in person at their registered office as above. In pursuance to the said notice, the Employer/Party II (for short, "Employer") put in their appearance through its employee. However, neither the Secretary, KTC Drivers & Allied Employees Association, nor the workman remained present in this Labour Court-II on the scheduled date of hearings without any justifiable cause, though ample opportunities were given to him. Consequently no Claim Statement has been filed on behalf of the Workman.

3. Heard an employee of the Employer Corporation.

4. In the case of **Baldev Singh v/s The Judge, Central Government Industrial Tribunal & Labour Court & ors., reported in 2007 II CLR 685**, the Hon'ble High Court of Rajasthan by referring the judgment of Hon'ble Apex Court in the case of **Virendra Bhandri v/s Rajasthan State Road Corporation Ltd., & ors reported in (2002) 9 SCC** observed as under:

".....a reference of certain Industrial Dispute was made to the Industrial Tribunal-cum-Labour Court. The workman did not appear before the Tribunal, therefore, Tribunal held that there remains no Industrial Dispute. However, subsequently, the Appropriate Government again referred the dispute to the Tribunal on the same question and on this occasion, the Tribunal adjudicated the matter and made an award. The High Court held that the finding recorded by the Tribunal in the first reference amounted to an "award" and, therefore, second reference was incompetent. The Hon'ble Apex Court held that all that was stated was that the parties concerned had not appeared before the Tribunal and in such an event, the Tribunal should have noted its inability to record the finding on the issue referred to it, not that the dispute itself does not exist. When there is no adjudication of the matter on merits, it cannot be said that the industrial dispute does not exist. If the industrial dispute still exists as is opined by the Government, such a matter can be referred under Section 10 of the I.D. Act, as Industrial Disputes are

preferred to the Labour Court or the Industrial Tribunal for maintenance of industrial peace and not merely for adjudication of the dispute between two private parties. Therefore, it was permissible for the Government to have made the second reference.”.

The principle laid down by the Hon'ble High Court in its aforesaid judgment binds a precedent upon me.

5. Applying the law laid down by the Hon'ble High Court in its aforesaid judgment, in the case in hand no pleadings have been filed by the workman as well as Employer before this court and as such I am unable to record the findings on the issue referred to me.

6. In the circumstances, I pass the following order:

ORDER

1. It is held that this court is unable to record the finding on the issue referred by the Appropriate Government.
2. No order as to costs.
3. Inform the Government accordingly.

Sd/-

(Suresh N. Narulkar)
Presiding Officer,
Labour Court-II.

Department of Law & Judiciary

Law (Establishment) Division

Order

No. 1/6/2014-LD(Estt.)/375

Government of Goa is pleased to accept the resignation tendered by Shri Vishnu D. Naik, as Government Counsel on the panel of Advocates for defending the interest of the Government in the matters allotted to him by the Law (Estt.) Department, Secretariat, Porvorim before the Administrative Tribunal with effect from 14-01-2015.

Shri Vishnu D. Naik shall return all the briefs pending with him if any, to the concerned Department under intimation to this Department.

By order and in the name of the Governor of Goa.

Amul S. Gaunkar, Under Secretary, Law (Estt.).
Porvorim, 23rd February, 2015.

Notification

No. 8-9-2015-LD(Estt)/356

In pursuance of Clause (f) of Section 58 of the Transfer of Property Act, 1882 (Central Act 4 of 1882) (hereinafter referred to as the “said Act”), and in supersession of the Government Notification No. 10/10/82-LGL dated 17-01-1996, published in the Official Gazette Series II No. 32 dated 7-11-1996, the Government of Goa hereby specifies the towns, Panaji, Ponda, Mapusa, Bicholim, Pernem, Valpoi, Margao, Vasco, Quepem, Sanguem, Dharbandora and Canacona in their respective talukas/sub-districts in the State of Goa, for the purpose of said Clause (f) of Section 58 of the said Act, with immediate effect.

By order and in the name of the Governor of Goa.

Amul S. Gaunkar, Under Secretary, Law (Estt.).
Porvorim, 19th February, 2015.

Department of Public Health

Order

No. 4/25/2008-II/PHD/316

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/II/11/30(3)/2002/885 dated 04-02-2015, Government is pleased to promote Smt. Maya Jirage, Biochemist to the post of Senior Biochemist (Group ‘B’, Gazetted) in the Department of Biochemistry in Goa Medical College, Bambolim on regular basis in the PB-2 Rs. 9,300-34,800 with Grade Pay of Rs. 4,600/- and other allowances to be fixed as per rules with immediate effect.

Smt. Maya Jirage shall be on probation for a period of two years.

The promotion is made against the vacancy occurred due to retirement of Smt. Juliana Rodrigues, Senior Biochemist w.e.f. 01-08-2014.

By order and in the name of the Governor of Goa.

Sangeeta M. Porob, Under Secretary (Health).
Porvorim, 25th February, 2015.

Order

No. 4/14/2003-II/PHD/Part 3/308

On the recommendation of the Goa Public Service Commission conveyed vide their letter No. COM/11/12/30(1)/2015/887 dated 04-02-2015,

Government is pleased to declare Dr. Dipti Ashish Srivastava, Lecturer, Department of Ophthalmology, Goa Medical College to have satisfactorily completed her probation period of two years w.e.f. 29-09-2011 to 28-09-2013 and to confirm her in the post of Lecturer in the Department of Ophthalmology in Goa Medical College, Bambolim with immediate effect.

By order and in the name of the Governor of Goa.

Sangeeta M. Porob, Under Secretary (Health).
Porvorim, 24th February, 2015.

Order

No. 4/4/2007-II/PHD/Part

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/II/11/30(2)/94/871 dated 20-01-2015, Government is pleased to promote Dr. Siddharth S. Banaulikar, Lecturer in Forensic Medicine to the post of Assistant Professor in Forensic Medicine in Goa Medical College, Bambolim-Goa on regular basis in the pay scale of PB-3 Rs. 15,600-39,100+ Grade Pay Rs. 6,600/- and other allowances to be fixed as per rules, with immediate effect.

The promotion is made against the vacancy occurred due to promotion of Dr. Andre V. Fernandes to the post of Associate Professor in Forensic Medicine vide Order No. 4/4/2007-II/PHD dated 29-07-2011 and subsequent revived vide Order No. 4/12/2005-II/PHD dated 08-09-2014.

Consequent upon above promotion, Dr. Siddharth Banaulikar is repatriated from Hospicio Hospital, Margao to Goa Medical College, Bambolim-Goa.

By order and in the name of the Governor of Goa.

Sangeeta M. Porob, Under Secretary (Health).
Porvorim, 24th February, 2015.

Order

No. 38/43/2015-I/PHD/7956

Government is pleased to accept the resignation tendered by Dr. Siddhi Surlakar, Medical Officer (on contract basis), Primary Health Centre, Curtorim under Directorate of Health Services w.e.f. 08-01-2015. She stands relieved from the post of Medical Officer (contract basis) under Directorate of Health Services w.e.f. 08-01-2015 (b.n.).

Dr. Siddhi Surlakar, Medical Officer shall refund and amount equivalent to the pay of one month in lieu of one month advance notice as per agreement signed by her with Government.

By order and in the name of the Governor of Goa.

Sangeeta M. Porob, Under Secretary (Health-II) (Link).

Porvorim, 20th February, 2015.

Order

No. 4/3/2008-IV/PHD/336

On the recommendation of the Goa Public Service Commission conveyed vide their letter No. COM/II/12/14(4)/2013/886 dated 04-02-2015, Government is pleased to declare Dr. Ashwin Raghunandan Mysore, Lecturer, Department of Prosthodontics and Crown and Bridge, Goa Dental College and Hospital, Bambolim-Goa, as having completed satisfactorily his probation period of one year from 24-08-2013 to 23-08-2014, and also to confirm him in the said post of Lecturer in the Department of Prosthodontics and Crown and Bridge, with immediate effect.

By order and in the name of the Governor of Goa.

Sangeeta M. Porob, Under Secretary (Health).
Porvorim, 25th February, 2015.

Order

No. 4/3/2008-IV/PHD/336

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/II/12/14(3)/2013/892 dated 04-02-2015, Government is pleased to declare Dr. Omkar Shetye, Lecturer, Department of Oral and Maxillofacial Surgery, Goa Dental College and Hospital, Bambolim-Goa, as having completed satisfactorily his probation period of one year from 16-07-2013 to 15-07-2014, and also to confirm him in the said post of Lecturer in the Department of Oral and Maxillofacial Surgery, with immediate effect.

By order and in the name of the Governor of Goa.

Sangeeta M. Porob, Under Secretary (Health).
Porvorim, 25th February, 2015.

Order

No. 4/3/2008-IV/PHD/336

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/II/12/14(1)/2014/888 dated 04-02-2015, Government is pleased to declare Dr. Rajan Lambor, Assistant Professor, Department of Conservative Dentistry and Endodontics, Goa Dental College and Hospital, Bambolim-Goa as having completed satisfactorily his probation period of one year with effect from 08-03-2013 to 07-03-2014.

By order and in the name of the Governor of Goa.

Sangeeta M. Porob, Under Secretary (Health).

Porvorim, 25th February, 2015.

Order

No. 4/3/2008-IV/PHD/336

On the recommendation of the Goa Public Service Commission conveyed vide their letter No. COM/II/12/14(1)/2013/891 dated 04-02-2015, Government is pleased to declare the following Lecturers in the Department of Conservative and Endodontics, Goa Dental College and Hospital, Bambolim-Goa, as having completed satisfactorily their probation period of one year, and also to confirm them in the said posts of Lecturer in the Department of Conservative and Endodontics with immediate effect:-

| Sr. No. | Name of Officer | Date of probation period completed | Post to which probation period completed and confirmed |
|---------|--------------------------|------------------------------------|--|
| 1. | Dr. Jeanne Zara Monteiro | 06-08-2013 to 05-08-2014 | Lecturer. |
| 2. | Dr. Swati Atul Borkar | 08-08-2013 to 07-08-2014 | Lecturer. |
| 3. | Dr. Abhilasha Arjun Naik | 08-08-2013 to 07-08-2014 | Lecturer. |

By order and in the name of the Governor of Goa.

Sangeeta M. Porob, Under Secretary (Health).

Porvorim, 25th February, 2015.

Certificate

No. 4/13/2002-II/PHD/327

Read: Government Order No. 4/13/2002-II/PHD dated 28-11-2014.

Certified that the character and antecedents of Dr. Sweta Da Silva Pereira, Lecturer in the Department of Radiology in Goa Medical College and Hospital, Bambolim appointed vide above referred Order has been verified by the Addl. District Magistrate, North Goa District, Panaji and nothing adverse has come to the notice of the Government.

Sangeeta M. Porob, Under Secretary (Health).

Porvorim, 25th February, 2015.

Department of Revenue**Order**

No. 23/20/2013-RD

Whereas, the Government of Goa, vide Notification No. 23/20/2013-RD dated 04-07-2013, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in the Official Gazette, Series II No. 14 dated 04-07-2013, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for development of road leading to Agadye village in V. P. Surla in Bicholim Taluka (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa, considered the report made by the Collector under sub-section (2) of Section 5A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 23/20/2013-RD dated 29-10-2014, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 31 dated 29-10-2014, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, North Goa District, Panaji-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).

Porvorim, 3rd March, 2015.

| Notification | | | 1 | 2 | 3 |
|--|-------------|--|---|--|------|
| No. 23/31/2013-RD | | | | 5) O: Jose Filipe Pegado Braganza. | |
| Whereas, by Government Notification No. 23/31/2013-RD dated 16-12-2013 published at Series II No. 39 of the Official Gazette dated 26-12-2013 and in two local newspapers, namely, "Goa Doot and "The Navhind Times" both dated 19-12-2013, it was notified under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act"), that the land specified in the Schedule appended to the said Notification (hereinafter referred to as the said land), was needed for public purpose, viz. Land Acquisition for approach road to Sewage Treatment plant at Baga and Sewage pumping station at Calangute, Bardez-Goa. | 171/1 part | | | 6) O: Alfeu Martinho Nazareth. | 436 |
| | | | | 1) O: Mari Pia D'Souza. | |
| | 279/37 part | | | 2) O: Orbit Morya Build Con. Pvt. Limited. | 3 |
| | | | | 1) O: Raimunda Fernandes. | |
| | 279/38 part | | | 2) T: Subrai Babuso Kundaikar. | 8 |
| | | | | 3) T: Maria Anjela Rodrigues. | |
| | 279/39 part | | | 1) O: Ophelia D'Silva. | 140 |
| | | | | 2) O: P.W.D., Government of Goa. | |
| | 279/40 part | | | 3) T: Maria Anjela Rodrigues. | 255 |
| | | | | 1) O: Ophelia D'Silva. | |
| | 279/48 part | | | 2) O: P.W.D., Government of Goa. | 6 |
| | | | | 1) O: Angela P. D'Souza. | |
| | 279/49 part | | | 1) O: Mingel Joao Antonio Mascarenhas. | 49 |
| | | | | 1) O: Comunidade of Calangute. | |
| | 287/1 part | | | 2) T: Gajanan Ravaloo Gadekar. | 1065 |
| | | | | 1) O: Ismael D'Souza. | |
| | 287/2 part | | | 1) O: Comunidade of Calangute. | 232 |
| | | | | 2) T: Atmaram Jaidev Simepuruskar. | |
| | 288/1 part | | | 1) O: Comunidade of Calangute. | 124 |
| | | | | 2) T: Gomati Ganesh Shirodkar. | |
| | 288/2 part | | | 1) O: Comunidade of Calangute. | 141 |
| | | | | 2) T: Gomati Ganesh Shirodkar. | |
| | 288/3 part | | | 1) O: Comunidade of Calangute. | 146 |
| | | | | 2) T: Atmaram Jaideo Simepuruskar. | |
| | 288/4 part | | | 1) O: Comunidade of Calangute. | 146 |
| | | | | 2) T: Gomati Ganesh Shirodkar. | |
| | 288/5 part | | | 1) O: Comunidade of Calangute. | 141 |
| | | | | 2) T: Atmaram Jeadeo Simepuruskar. | |
| | 288/6 part | | | 1) O: Comunidade of Mapusa. | 158 |
| | | | | 2) T: Gomati Ganesh Sirodkar. | |
| | 288/7 part | | | 1) O: Comunidade of Calangute. | 170 |
| | | | | 2) T: Atmaram Jeadeo Simepuruskar. | |
| | 288/8 part | | | 1) O: Comunidade of Calangute. | 162 |
| | | | | 2) T: Gomati Ganesh Sirodkar. | |

SCHEDULE

(Description of the said land)

Taluka: Bardez

Village: Calangute

| Survey No./ Sub-Div. No. | Name of the interested parties | Area in sq. mts. |
|-----------------------------|---|---------------------|
| 1 | 2 | 3 |
| 118/1 part | 1) O: Shri Shantadurga of Nandodem Bicholim Devasthan. | 323 |
| 137/3 part | 1) O: Armando Francisco Nazareth. | 453 |
| | 2) O: Maria Joquim Esminin Nazareth. | |
| | 3) O: Antonio Jose Nazzareth. | |
| | 4) O: Consecacao Fillicion Josetina Florencia-Nazareth. | |

| 1 | 2 | 3 | 1 | 2 | 3 |
|-------------|---|------|---|---|---|
| 289/4 part | 1) O: Angela P. D'Souza. | 192 | <i>Boundaries:</i> | | |
| | 2) T: Josefina Carasco. | | | | |
| 289/6 | 1) O: Dr. Ricardo Antonio Jose De Fatima Mascarenhas. | 100 | North : S. No. 118/1, 137/3, 171/1, 279/37 to 40, 48, 287/1, 288/1 to 5, 7, 8, 289/4, 290/23, 299/8 & 12. | | |
| | 2) O: Dr. Otilia Palmira Rodrigues E Mascarenhas. | | South : S. No. 118/1, 137/3, 171/1, 279/39, 40, 49, 287/1, 2, 288/1 to 8, 289/7, 299/12, 303/4, 5, 305/4. | | |
| | 3) O: Mrs. Agnela Robertina Alvares Lobo E Mascarenhas. | | East : S. No. 118/1, 137/3, 171/1, 301/1 & Nallah. | | |
| | 4) O: Jesus Antonio Francisco Agnelo De Fatima Mascarenhas. | | West : S. No. 118/1, 137/1, 171/1, 279/40, 301/17 to 18, 303/3,4. | | |
| 289/7 part | 1) O: P.W.D., Government of Goa. | 525 | | | |
| | 2) O: Dr. Ricardo Jose De Fatima Mascarenhas. | | Total: 7898 | | |
| | 3) O: Otilia Palmira Rodrigues E Mascarenhas. | | By order and in the name of the Governor of Goa. | | |
| | 4) O: Mrs. Agnela Robertina Alvares Lobo E Mascarenhas. | | <i>Anju S. Kerkar</i> , Under Secretary (Revenue-II). Porvorim, 4th March, 2015. | | |
| | 5) O: Jesus Antonio Francisco Agnelo De Fatima Mascarenhas. | | ◆◆◆ | | |
| 299/8 part | 1) O: Edwardo Egypcy. | 547 | Department of Science, Technology & Environment | | |
| | 2) O: Francisco Egypcy. | | — | | |
| | 3) O: Minguel Egypcy. | | Corrigendum | | |
| 299/12 part | 1) O: Tereza Saldanha Egipsy. | 1814 | No. 7/4/98/STE/DIR/Part I/1601 | | |
| | 2) O: Zena Egipsy Monteiro. | | Read: Order No. 7/4/98/STE/DIR/Part I/1482 dated 22nd January, 2015. | | |
| | 3) O: Jose Egipsy. | | In partial modification to the aforementioned order, the date specified in the schedule at Serial No. 1 in respect of "Carnival" shall be read as 14th February, 2015 instead of 15th February, 2015. | | |
| | 4) O: Marinha Egipsy Antao Pereira. | | All the rest of the content shall remain unchanged. | | |
| | 5) O: Caroline Fernandes Ejipsy. | | By order and in the name of the Governor of Goa. | | |
| | 6) O: Rita Ejipsy. | | <i>Srinet Kothwale</i> , Director & ex officio Joint Secretary (Env.). | | |
| | 7) O: Anthony Ejipsy. | | Saligao, 11th February, 2015. | | |
| 303/4 part | 1) O: Diogo Graido Martin Monteiro. | 11 | | | |
| | 2) O: Purselino Fernandes. | | | | |
| 303/5 | 1) O: Albertina Homes. | 479 | | | |
| | 2) T: Gajanand Anant Assgaokar. | | | | |

◆◆◆
Department of Water Resources

Office of the Chief Engineer

—
Order

No. 3/25-4/87/CE-WR/1463

On the recommendation of the Goa Public Service Commission as conveyed vide confidential letter No. COM/II/11/27(1)/11/775 dated 29-10-2014, Government is pleased to order the promotion of the following Technical Assistant (Civil)/Junior Engineers (Civil) of the Water Resources Department,

Government of Goa to the posts of Assistant Engineers/Assistant Surveyor of Works in the Water Resources Department on regular basis in the pay scale of Rs. 9,300-34,800+ G. P. 4,600/- with immediate effect and post them against the places indicated below:

| Sr. No. | Name and Designation | Present place of posting | Place of posting on promotion |
|---------|---|--|--|
| 1 | 2 | 3 | 4 |
| 1. | Shri S. B. Hosamani, Technical Assistant | Sub-Div-II, Works Div-X, WRD, Sanguem | Sub-Div-II, Works Div-X, WRD, Sanguem. |
| 2. | Shri Mohan A. Kamble, Technical Assistant | Sub-Div-III, Works Div-IX, WRD, Gogal-Margao | Sub-Div-III, Works Div-IX, WRD, Gogal, Margao. |
| 3. | Smt. Malini Ramesh Naik, Junior Engineer | SE-CPO, WRD, Porvorim | SE-CPO, WRD, Porvorim. |
| 4. | Shri Prabhu Sanjay V., Junior Engineer | Sub-Div-II, Works Div-III, WRD, Ponda | Sub-Div-II, Works Div-III, WRD, Ponda. |
| 5. | Shri D'Souza Franklin, Junior Engineer | Sub-Div-I, Works Div-II, WRD, Gogal-Margao | Sub-Div-I, Works Div-II, WRD, Gogal-Margao. |
| 6. | Shri Pereira Wesley Edward, Technical Assistant | ASW- Works Div-XII, WRD, Gogal-Margao | ASW-Works Div-XII, WRD, Gogal-Margao. |
| 7. | Shri Shekhawat M. Singh, Technical Assistant | Sub-Div-II, Works Div-II, WRD, Sanguem | Sub-Div-II, Works Div-II, WRD, Sanguem. |
| 8. | Shri Dilip B. N. Bandodkar, Junior Engineer | ACE (I)(P), WRD, Porvorim | ACE (I)(P), WRD, Porvorim. |
| 9. | Shri Rajendra M. Gaonkar, Junior Engineer | Sub-Div-III, Works Div-XIII, WRD, Margao | Sub-Div-III, Works Div-XIII, WRD, Margao. |
| 10. | Shri Dilip Vishram Tembkar, Junior Engineer | Sub-Div-I, Works Div-V, WRD, Kerim | Sub-Div-I, Works Div-V, WRD, Kerim. |
| 11. | Shri Gauns Ram Nakul (PH), Technical Assistant | Sub-Div-IV, Works Div-VIII, WRD, Karaswada | Sub-Div-I, Works Div-VI, WRD, Dodamarg. |
| 12. | Shri Chimeta D. Narayan, Technical Assistant | Sub-Div-III, Works Div-VII, Dhargal | Sub-Div-III, Works Div-VII, Dhargal. |
| 13. | Shri Dawood Shaikh U. Shaikh, Junior Engineer | ASW-II, Works Div-III, WRD, Ponda | ASW-II, Works Div-III, WRD, Ponda. |
| 14. | Shri Chandrakant S. Damsadekar, Junior Engineer | Sub-Div-II, Works Div-XII, WRD, Gogal-Margao | Sub-Div-II, Works Div-XII, WRD, Gogal-Margao. |
| 15. | Shri Pedro Inas Fernandes, Junior Engineer | Sub-Div-IV, Works Div-VI, WRD, Bicholim | Sub-Div-II, Works Div-V, WRD, Sanquelim. |
| 16. | Shri Azad S. Vernekar, Technical Assistant | Sub-Div-I, Works Div-IX, WRD, Gogal-Margao | Sub-Div-I, Works Div-IX, WRD, Gogal-Margao. |
| 17. | Shri Ghantkar Shantaram B., Technical Assistant | Circle-I, WRD, Porvorim | Circle-I, WRD, Porvorim. |
| 18. | Shri Maruti Ganpati Rane, Junior Engineer | Sub-Div-III, Works Div-IX, WRD, Gogal-Margao | Sub-Div-II, Works Div-XI, WRD, Canacona. |
| 19. | Shri Raghunath Savlo Naik, Junior Engineer | Sub-Div-I, Works Div-XIII, WRD, Gogal-Margao | ASW, Works Div-II, WRD, Gogal-Margao. |
| 20. | Shri G. F. Pawadi, Junior Engineer | Sub-Div-III, Works Div-VI, WRD, Mulgao | Sub-Div-III, Works Div-V, WRD, Kerim. |
| 21. | Shri Ravlu P. Shetye, Technical Assistant | Sub-Div-II, Works Div-I, WRD, Mapusa | Sub-Div-II, Works Div-I, WRD, Mapusa. |

On the promotion and posting of Shri Raghunath Savlo Naik, Assistant Surveyor of Works to Works Division-II, Water Resources Department, Gogal, Margao-Goa, Shri B. A. Nadaf, Assistant Surveyor of

Works is transferred from Works Division-II, Water Resources Department, Gogal, Margao, to Circle Office-II, Water Resources Department, Karaswada, Colvale, Bardez-Goa and Shri Subhash N. Shah, Assistant Surveyor of Works is transferred from Circle Office-II, Water Resources Department, Karaswada, to Sub-Division-III, Works Division-VIII, Water Resources Department, Karaswada, Colvale, Bardez-Goa.

“The promotions made under these Orders subject to the result of Writ Petition No. 459/2013 pending before the Hon'ble High Court and to any further and other Orders that may be passed by the Hon'ble High Court in said Writ Petition 459/2013.”

The above Officers will be on probation for a period of 2 years.

By order and in the name of the Governor of Goa.

S. T. Nadkarni, Chief Engineer & ex officio Addl. Secretary (WR).

Porvorim, 19th February, 2015.



Government Printing Press

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